

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

June 1, 2000

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, June 1, 2000, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; Mr. William Barr, Vice Chairman; Mrs. Peg Mailler, Mr. John Meadows, Dr. James Branscome and Mr. James VanLuven. Also present were Mr. Paul McCulla, County Attorney; Mrs. Carolyn Bowen, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator, and Mrs. Beverly Pullen, Zoning Office Technician. Mr. Eugene Lofdahl was absent.

MINUTES

The minutes of the May 4, 2000 meeting were approved as corrected.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the case before the Board of Zoning Appeals for a public hearing has been properly advertised, posted, and letters of notification sent to adjoining property owners.

SPECIAL PERMIT #45503

ASPEN PROPERTIES LLC (OWNERS)

RICHARD AND KATHLEEN FITZSIMMONS (CONTRACT OWNERS)

Applicants are requesting special permit approval to continue operating a Residential Care Facility on 6.73 acres of 21.8 acres. Applicants' request is to increase the number of residents to twenty (20). The subject property is identified as PIN#7828-40-2249-000, is located at 3493 Midland Road (State Route 610), and is zoned Rural Agricultural, in Cedar Run District.

Mr. Hodge stated that this case had been deferred from the May meeting and that the public hearing was closed.

Mr. Rider asked the members if they had reviewed the additional material that was submitted at last month's meeting, and they indicated they had.

On the motion made by Mr. Meadows, and seconded by Mr. Barr, it was moved to grant special permit #45503, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.

2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-604

Additional Standards for Residential Care Facilities

1. In the consideration of an application for such a use, the concentration of such facilities shall be taken into account to prevent clustering in certain neighborhoods, thereby creating an institutional setting and changing the area's character and social structure.
2. In granting a permit for a residential care facility, a maximum number of residents shall be established. This limitation shall be based upon, but not limited to, the following considerations (as well as the standards set forth in Section 006 above).
 - A. The size of the structure and of the site.
 - B. Location and size of other similar facilities in the neighborhood.
 - C. The density allowed and existing in the area.
3. In addition to the minimum lot size requirements of the zoning district in which located, the minimum lot area for a residential care facility shall be of such size that:
 - A. 300 square feet of usable outdoor recreation area shall be provided for each resident 17 years of age and younger.
 - B. 150 square feet of usable outdoor recreation area shall be provided for each resident 18 years of age and older.
Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed. For the purpose of this provision, usable outdoor recreation area shall be limited in the same manner as Paragraph 503.1.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:

- (1) The maximum number of children shall be limited to fourteen (14).

- (2) Written approval from the Fauquier County Health Department shall be submitted prior to facility being used for the allowable capacity of fourteen (14) children.
- (3) The Zoning Administrator shall be notified within twenty-four (24) hours involving any incident reported to the Fauquier County Sheriff's Office regarding the Residential Care Facility, other than those civil in nature.
- (4) Dust control measures, such as the application of Calcium Chloride, shall be applied to the driveway of the subject property - the driveway is to be maintained with a dustless surface.
- (5) The special permit does not convey with the sale of the property.
- (6) The permit is granted for a period of fifteen (15) months from July 2, 2000, or until October 1, 2001.

The vote was 5-0 in favor of the motion, with Dr. Branscome abstaining from the vote.

SPECIAL PERMIT AND VARIANCE #45630

FAUQUIER JUNIOR FAIR, INC. (OWNER)

PIEDMONT EQUINE PRACTICE, INC. (CONTRACT OWNERS)

Applicants are requesting special permit approval to locate a veterinary clinic, and a variances to two side yard requirements to allow the construction of a barn and a carport closer than that allowed by the Zoning Ordinance. The subject property is identified as PIN#6070-60-7640-000, located at 4122 Zulla Road (State Route 709), contains 4.00 acres, is zoned Rural Agriculture, in Scott District.

Mr. Hodge reviewed the updated staff report and stated that this case was deferred from the May meeting, and further stated that the public hearing was closed. He indicated that a revised site plan had been submitted, and that the applicants have moved the proposed barn sixty-eight (68') feet from a side property line, and the carport is now ten (10') feet from a side property line.

Mr. Rider asked Mr. Tissue to explain the revised site plan to the members.

Mr. Ben Tissue stated that the proposed barn has been relocated, and the requested variance is thirty-two (32') feet for the barn. He stated that the carport has been moved and the requested variance is fifteen (15') feet to a side property line. He further explained that the entrance has been re-configured, as well as the travelways, and the small animal clinic. He further explained the proposed screening to include fencing, and landscaping. He indicated that some of the trees may have to be removed for the fence, however, the intent is to save as many as possible. Mr.

Tissue stated that a landscape waiver request will be submitted along with site plan approval, but the waiver will be for the rear and southern side of the property.

Mr. Meadows expressed concern with the location of the proposed carport.

Mrs. Bowen explained that the variance for the carport could be conditioned so as not to allow any future enclosure of the structure.

Mr. Meadows asked if the entire property would be fenced.

Dr. Nolan indicated that it would not. He explained that all equine patients would be unloaded from within the fenced area, through the electric gate.

Mr. Rider asked Mr. McCulla if separate motions should be made for the special permit and the variance request.

Mr. McCulla indicated that separate motions are necessary.

On the motion made by Mr. Barr, and seconded by Mr. Van Luven, it was moved to grant special permit #45630, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-1302 Additional Standards for Veterinary Clinics

1. All such facilities shall be within a completely enclosed building, such building being adequately soundproofed and constructed so that there will be no emission of odor or noise detrimental to other properties in the area.
2. In a Residential or Rural District, the facility shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Zoning Appeals finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to

secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:

- (1) The proposed sign shall be up to twenty (20) square feet.
- (2) Site plan approval as required.
- (3) Site will be developed in general conformance with the revised plan presented to the Board of Zoning Appeals.

The vote was 5-0 in favor of the motion, with Dr. Branscome abstaining from the vote.

On the motion made by Mrs. Mailler, and seconded by Mr. Meadows, it was moved to grant variance #45630, based on the Board's findings, after due notice and hearing, as provided by §15.2-2204 of the Code of Virginia:

1. The property was acquired in good faith; and
2. Strict application of the Ordinance would effectively prohibit or unreasonably restrict use of the property because of the narrowness of the property.
3. The granting of the variance will alleviate a clearly demonstrable hardship approaching confiscating, and is distinguished from a special privilege or convenience sought by the applicant.
4. The hardship or restrictions on the use of the property are by reason of:
 - (a) the exceptional narrowness of the property, and the location of the existing building.
5. The size or shape, exceptional conditions, or extraordinary situation which result in the hardship or restrictions on the use of the applicant's property are:
 - (a) the exceptional narrowness of the property, and the location of the existing building.
6. The variance will be in harmony with the intended spirit and purpose of the Ordinance, and would result in substantial justice being done.
7. The strict application of the Ordinance will produce undue hardship.
8. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity and is not of so general or recurring a nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the Ordinance.
9. The authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

10. The minimum variance that is necessary to afford relief is thirty-two (32') feet for the proposed barn, and fifteen (15') feet for the proposed carport.

Subject to the following conditions, which are necessary or desirable in furtherance of the intent and purpose of the Ordinance:

- (1) The carport shall never be enclosed.

The vote was 5-0 in favor of the motion, with Dr. Branscome abstaining from the vote.

***4. SPECIAL PERMIT #45723
TALBOT L. AND WALTA H. WARREN (OWNERS)**

Applicants wish to use an existing one-bedroom cottage as a Bed and Breakfast. The subject property is identified as PIN #6035-80-3442-000, located on Federal Street (State Route 759), in Paris, contains 1.48 acres, is zoned Village, in Marshall District.

Mr. Hodge reviewed the staff report and stated that a site visit was conducted earlier in the day. He stated that the applicants are also requesting an identification sign of up to two (2') square feet.

Mrs. Warren was present in support of their request. She explained that when they purchased the property in August of 1997, the property contained a one-bedroom cottage that has always been used as a rental unit. She stated that she and her husband now wish to use the existing cottage as a Bed and Breakfast, with occasional guests. She explained that by using the cottage as an occasional B&B, the impact would be less with regard to water usage, as well as reduce the number of vehicle trips on Federal Street. She stated that she does not plan to increase the size of the existing cottage.

Mr. Rider asked if anyone wished to speak regarding this request.

Ms. Lillian Stribling spoke in opposition. She cited concerns with future expansion of the use on the property, as well as increased traffic, and well and septic concerns.

On the motion made by Mrs. Mailler, and seconded by Mr. Barr, it was moved to grant special permit #45723, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in

Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.

3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-302

Additional Standards for Tourist Homes and Boarding Houses

1. Such a use shall provide accommodations for not more than twelve (12) persons.
2. Off-street parking for the use shall be in accordance with the provisions of Article 7, shall not be located in any required front yard, and shall be effectively screened.
3. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Supervisors or the Board of Zoning Appeals finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage. Such alternative access shall be to a road designated in the Comprehensive Plan no lower than rural minor collector or urban local.
4. In Residential and Rural Zoning Districts, the Building(s) so used shall have the exterior appearance of a single family residence and normal residential accessory structures.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:
 - (a) The special permit does not convey with the sale of the property.
 - (b) The identification sign shall be up to two (2') square feet.

The motion carried unanimously.

OTHER MATTERS:

Mrs. Bowen presented the proposed “Public Hearing Protocol Policy” and asked the Board of Zoning Appeals members if they have any comments or changes. She stated that this is the current public hearing protocol used by the Board of Supervisors, and the Planning Commission.

Mr. McCulla explained that if the policy is adopted, the BZA would still have the ability to allow complex and detailed requests additional time, if need be.

On the motion made by Dr. Branscome and seconded by Mr. Barr, it was moved to adopt the following policy:

PUBLIC HEARING PROTOCOL

- The purpose of a public hearing is for the Fauquier County Board of Zoning Appeals to listen carefully to the verbal expression of position and opinion from the citizens of Fauquier County.
- All public hearings are advertised weeks prior to the scheduled hearings and the notices indicate where citizens can obtain information pertinent to matters scheduled for public hearing.
- Public hearings are not question and answer sessions or debates and all statements should be addressed to the chair.
- Public hearings are intended to give citizens an opportunity to influence the public decision process based on prior research and discussions with appropriate public officials.
- Applicants, or representatives of the applicant, will be allowed ten (10) minutes to introduce information regarding the matter advertised for public hearing. All comments are to be pertinent to the issue being considered.
- Persons speaking at public hearings are respectfully requested to keep comments brief, not to exceed three (3) minutes, and to address only those issues pertinent to the matters advertised for public hearing.
- Written copies of statements made at public hearings are requested but not required.

The motion carried unanimously.

COURT CASE UPDATE

Mr. McCulla updated the Board of Zoning Appeals on the recently filed Oasis lawsuit. He explained that the case had been filed by Oasis against Fauquier County Board of Supervisors regarding special exception conditions.

He explained that the Oasis court case regarding the appeal of the BZA's decision, may be dismissed. He indicated that he had spoken with Oasis' attorney, John Foote, and due to the recent Zoning Ordinance text amendment, the court case may be dismissed. He stated that he is working with Mr. Foote on an order to dismiss.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at
3:05 P.M.

William Rider, Chairman

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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